

**REMARKS**

Claims 1 and 11 have been amended, and claim 4 has been cancelled. Claims 1-3, 5 and 11-20 remain for consideration. No new matter has been added.

The objections and rejections shall be taken up in the order presented in the Official Action.

**1-3. Election/Restriction**

Claim 8 has been withdrawn with traverse.

4. The information disclosure statement filed 8/4/06, 10/16/06 and 6/21/07 allegedly fails to comply with 37 C.F.R. §1.98(a)(2).

The documents identified in the information disclosure statements filed on 8/4/06, 10/16/06 and 6/21/07 have been attached as requested.

5. The oath or declaration stands defective.

A new legible oath or declaration will be transmitted to the Office.

6. The title of the invention is not descriptive.

The title has been amended.

7. Claims 1, 4-6, 11 and 14 currently stand rejected under 35 U.S.C. §102(b) as allegedly being anticipated by U.S. Patent 4,020,830 to Johnson et al. (hereinafter "Johnson").

#### Claim 1

Claim 1 recites a sensor. The sensor includes:

"a silicon substrate having a source region, a drain region and a capacitive well;

a floating gate disposed on the silicon substrate to form a field effect transistor with the source region and drain region;

an insulating layer that separates the floating gate and a hybrid mounted top electrode having a sensitive layer formed on an underside thereof, where the sensitive layer and the insulating layer form an air gap; and

a layer of hydrophobic material on a surface of the insulating layer within the air gap." (cl. 1, emphasis added)

A 35 U.S.C. §102(b) rejection requires a single prior art reference that discloses each feature of the claimed invention. Johnson is incapable of anticipating claim 1 since it fails to disclose the feature "a silicon substrate having a source region, a drain region and a capacitive well." (cl. 1, emphasis added). As a result, it is respectfully submitted that Johnson is incapable of anticipating claim 1.

#### Claim 11

Regarding claim 11, Johnson does not disclose a sensor, comprising:

"at least one component containing silicon and having a sensitive detection element; and

a floating gate coupled to at least one of the components containing silicon;

a silicon substrate having a source region, a drain region and a capacitive well, where the source region, the drain region and floating gate form a field effect transistor; and

where the at least one component containing silicon includes a coating layer of hydrophobic material." (cl. 11, emphasis added)

A 35 U.S.C. §102(b) rejection requires a single prior art reference that discloses each feature of the claimed invention. Johnson is incapable of anticipating claim 1 since it fails to disclose the feature *"a silicon substrate having a source region, a drain region and a capacitive well, where the source region, the drain region and floating gate form a field effect transistor."* (cl. 11, emphasis added). As a result, it is respectfully submitted that Johnson is incapable of anticipating claim 11.

#### **Claims 4-6 and 14**

It is respectfully submitted that these rejections are now moot since claims 1 and 11 are patentable for at least the reasons set forth above.

**8-9.** Claims 2-3, 12-13, 15-16 and 17-20 currently stand rejected for allegedly being nonobvious over Johnson in view of the publication authored by Angst.

It is respectfully submitted that these rejections are now moot since claims 1 and 11 are patentable for at least the reasons set forth above.

**10-12.** Claims 1-6 and 11-14 allegedly stand in conflict with claims 1-3, 6-7 and 9 of Application Number 10/566,412 to Ruhe et al. (hereinafter "Ruhe") for statutory double patenting.

No claims have been allowed in the co-pending Ruhe application. Consequently, Applicants respectfully submit that it is premature to argue or amend the claims in the present application. Once a claim is allowed, but for the obviousness double-patenting rejection, in one of the two patent applications, the merit of the present rejection can be evaluated as between the

allowed claim and the pending claims in the other application. Applicants therefore respectfully request that the present rejection be held in abeyance until one or more claims are allowed in one of the aforesaid applications.

For all the foregoing reasons, reconsideration and allowance of claims 1-3, 5 and 11-20 is respectfully requested.

If a telephone interview could assist in the prosecution of this application, please call the undersigned attorney.

Respectfully submitted,

A handwritten signature in cursive script, reading "Patrick J. O'Shea", written over a horizontal line.

Patrick J. O'Shea

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